

**LITIGATION ROSTER**

**FRANCHISE AND INCOME TAX**

**SEPTEMBER 2010**

**Franchise and Income Tax  
September 2010**

**NEW CASES**

Case Name

Court/Case Number

None

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**CLOSED CASES**

Case Name

Court/Case Number

None

Please refer to the case roster for more detail regarding new and closed cases

## Franchise and Income Tax

### LITIGATION ROSTER

September 2010

#### **MALEKSALEHI, NEMAT, Maryam Maleksalehi v. State Board of Equalization**

Sacramento County Superior Court No. 34-2009-80000365

Filed – 10/29/09

BOE's Counsel

Jill Bowers

BOE Attorney

Amy Kelly

Plaintiff's Counsel

Barzin Barry Sabahat

Anchor Law Group, APC

Issue(s): Petitioners contend writ relief is necessary to correct the BOE's 'clearly erroneous' determination in petitioners' appeal. Petitioners further contend that the BOE erroneously: (1) denied petitioners' appeal; (2) assessed income taxes against the petitioners; and (3) is illegally collecting income taxes from petitioners. BOE contends a writ of mandate is not the proper and exclusive remedy provided under the California Constitution and Revenue and Taxation Code to litigate a disputed income tax; the proper and exclusive remedy is a tax refund suit. ([Cal. Const., art. XIII, section 32](#), Revenue & Taxation Code sections [19381](#), [19382](#); *Nast v. Board of Equalization* (1996) 46 Cal.App. 4th 343.) BOE is not a proper defendant in this action and no cause of action can be stated against BOE; the proper defendant in tax refund litigation is the FTB. (*Id.*) In addition, the complaint is not timely filed pursuant to Revenue & Taxation Code section [19384](#), and is therefore time barred.

Audit/Tax Period: 2001

Amount: \$115,870.00

Status: Hearing is scheduled for March 25, 2011.

#### **SCHROEDER, DONNIE v. State Board of Equalization, et al.**

Sacramento County Superior Court Case No. 34-2008-00023624

Filed – 10/02/08

Court of Appeal, Third Appellate District No. C062318

BOE's Counsel

Stephen Pass

BOE Attorney

Kiren Chohan

Plaintiff's Counsel

Donnie Schroeder

In Pro Per

Issue(s): Plaintiff contends that the State of California, by and through the Franchise Tax Board (FTB) and State Board of Equalization (BOE), made intentional settling determinations of plaintiff's tax liability during the period 1995 to the present. Further, FTB and BOE ignored plaintiff's rights to judicial review in violation of plaintiff's constitutional rights. FTB published personal and private information with the Sacramento County Recorder's Office, allowing public viewing of plaintiff's private information to the general public.

Audit/Tax Period: None

Amount: Unspecified

Status: Judgment in favor of State defendants was entered May 14, 2009. Plaintiff's Notice of Appeal was served on June 22, 2009. The case is fully briefed – pending scheduling of oral argument.

**FRANCHISE AND INCOME TAX**  
**CLOSED CASES**  
**LITIGATION ROSTER**  
September 2010

No cases were closed during this period.

**DISCLAIMER**

**Every attempt has been made to ensure the information contained herein is valid and accurate at the time of publication. However, the tax laws are complex and subject to change. If there is a conflict between the law and the information found, decisions will be made based on the law.**

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